

United States Department of Agriculture
Marketing and Regulatory Programs
Grain Inspection, Packers and Stockyards Administration

Directive

GIPSA 4771.1

9/7/01

ALTERNATIVE DISPUTE RESOLUTION

1. PURPOSE

This Directive:

- a. Provides the Grain Inspection, Packers and Stockyards Administration (GIPSA) policy on Alternative Dispute Resolution (ADR).
- b. Provides employees with information about the ADR program for resolving disputes in the workplace using the proven concept of mediation.

2. REPLACEMENT HIGHLIGHTS

This Directive replaces Secretary's Memorandum 4710-1.

3. AUTHORITIES

- a. Administrative Dispute Resolution Act of 1996;
- b. Negotiated Rulemaking Act of 1996;
- c. Department of Agriculture Reorganization Act of 1994; and
- d. Equal Employment Opportunity Commission (EEOC) regulations on federal sector equal employment opportunity (EEO) complaint processing, 29 C.F.R. 1614.

4. BACKGROUND

ADR includes an array of techniques used to achieve consensual resolution of disputes, generally with the assistance of a neutral third party ("neutral"). Some ADR techniques are fact-finding, mini-trials, and negotiated rulemaking. The use of ADR can benefit GIPSA, its customers, and employees. These benefits include achieving effective and mutually satisfactory resolutions of disputes; decreasing time, cost, and other resources expended in resolving disputes; fostering a culture of respect and trust between USDA and its customers and employees; and increasing customer satisfaction and employee morale.

5. POLICY

Traditionally, the established methods available Agency-wide to resolve employee disputes are the EEO complaint process, the administrative or negotiated grievance systems, and the APHIS Conflict Prevention and Resolution (CPR) program. This directive establishes the use of ADR, more specifically, mediation, as another method to resolve Agency disputes. The ADR program will not replace any of the other established methods, but will give employees, including managers and supervisors, another option of resolving disputes using the proven concept of mediation. This initiative implements the Secretary's policy of ADR and complies with the new Federal regulations requiring all Federal agencies to adopt and implement an ADR program.

All Agency employees may request use of the ADR process. For those employees who choose to file an informal EEO complaint, the Agency EEO Counselor will offer mediation as an option to resolve the complaint. Mediation is also available for those employees who desire to resolve disputes that do not involve discrimination.

Conflict is a normal and inevitable part of working together and necessary for organizational growth and change. Unresolved conflict, however, almost always surfaces again. GIPSA is offering mediation as an option for resolving workplace conflict. Mediation is the intervention into a conflict by an acceptable and impartial third party with no stake in the dispute and no decision-making authority, whose objective is to assist parties to resolve disputes. Facilitation is the use of techniques to improve the flow of information in a meeting between the parties to a dispute. The techniques may be applied to a decision making meeting where a specific outcome is desired (e.g. resolution of conflict or dispute or clarification of a policy, procedure or process). The Agency will provide trained mediators/facilitators who are available through several sources, both inside and outside the Department. The Agency's objective is to resolve disputes quickly and at the lowest possible level.

All Agency employees should be committed to managing and resolving workplace conflicts. The Agency is convinced that ADR will enhance the quality of work life by improving communication, strengthening interpersonal relationships, building trust, and enhancing skills that employees need to successfully manage and resolve conflict.

All GIPSA employees, including managers and supervisors, should consider using ADR at the earliest stage of a perceived conflict. This is not intended to replace other avenues of redress and will not prevent you from exercising your rights under the Equal Employment Opportunity (EEO) process or the grievance systems. It is your opportunity to take advantage of a process that is proven to be successful in resolving workplace disputes. Any employee wishing more information can contact the GIPSA Civil Rights Staff at 202-720-0218.

6. DEFINITIONS

ADR - A process that incorporates a fact-finding and/or resolution process in addition to the minimum requirement of 29 C.F.R. Part 1614. ADR refers to a variety of dispute resolution techniques that involve the introduction of a neutral third party into a dispute.

Complaint - An allegation, formal or informal, that an action or decision in USDA (if an individual complaint) or a policy or practice of USDA (if a class action complaint) which has personally affected an employee was discriminatory on a prohibited basis.

Mediation - An interest-based ADR process in which a third party neutral (the mediator) meets two or more parties who have a conflict, facilitates discussions, and assists the parties in reaching a mutual resolution of their differences. The mediator does not have decision-making authority; resolution rests with the parties.

Neutral Evaluation - A process in which a neutral factfinder considers the relative merits of the parties' cases. The parties generally provide the highlights of their respective positions in an informal presentation to the neutral, who submits a nonbinding objective evaluation of the case to the parties that often results in more productive future negotiations.

Grievances - Requests by an employee, or by a group of employees acting as individuals, for personal relief in a matter of concern or dissatisfaction relating to the employment of the employee(s) under the control of GIPSA management.

Facilitation - Facilitation involves the use of techniques to improve the flow of information in a meeting between parties to a dispute. The techniques may also be applied to decision-making meetings where a specific outcome is desired (e.g., resolution of a conflict or dispute). The term "facilitator" is often used interchangeably with the term "mediator," but a facilitator does not typically become as involved in the substantive issues as does a mediator. The facilitator focuses more on the process involved in resolving a matter.

Third party - A person other than the principals.

Disputes - To call into question, to struggle over.

Informal Complaint - All allegations concerning any issue that is presented to an EEO Counselor.

Formal Complaint - An allegation that was not resolved in counseling and which has been filed with the USDA for investigation and additional processing.

7. INQUIRIES

For additional information on the program, please call Raymond E. Jones of the Civil Rights Staff at (202) 690-3640.

/s/ David R. Shipman
Acting Administrator